

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**AMICUS MIAMI OF OHIO, LLC**

**: Case No. 2:22-cv-02320**

**Plaintiff**

**Judge Watson**

**: Magistrate Jolson**

**vs.**

**HEATHER HOELZER KACACHOS, *ET AL.***

**: DEFENDANTS' MOTION TO  
TRANSFER CASE**

**Defendants**

**:**

Defendants Thomas and Heather Kacachos hereby move the Court to transfer this case to the Cincinnati office of the Western Division, pursuant to 28 USC Section 1404, S.D. Ohio Civ. Rule 82.1 and the doctrine of *forum non conveniens*.

There is no connection at all between this dispute and Franklin County, Ohio. The Defendants both reside in Butler County. The entire portfolio of real property which is the subject matter of this case all lies in Butler County. No plaintiff resides in Franklin County.

Respectfully submitted,

**/s/ Edward P. Akin**

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## MEMORANDUM

This Court has the power to transfer this action to any division in which it might have been brought, pursuant to 28 USC Section 1404(a). While Plaintiff's caption indicates it is filed in the Western Division, which would be proper, it has been assigned to an Article III judge based in Columbus, Ohio. This means that for any proceedings requiring personal appearances, the Defendants and their legal counsel will have to travel over 100 miles each way. For all practical purposes, this amounts to having the case filed erroneously in the Eastern Division, notwithstanding what has been placed on Plaintiff's caption.

While a plaintiff has some discretion in selecting a forum, that discretion does not extend to derogation of the Court's own Local Rules. Pursuant to S.D. Ohio Civ. Rule 82.1, this matter should have been filed in Cincinnati, the Western Division, in the first place. That Rule states, in pertinent part:

### 82.1 Venue of Actions within the District

(a) Scope of this Rule. The filing of actions properly venued within this District shall be governed by the following rules, subject to the jurisdictional and venue requirements of all statutes, both general and specific.

(b) Location of Court. For venue purposes, the area served by each location of Court consists of the following counties:

\* \* \*

Western Division: Cincinnati: Adams, Brown, **Butler**, Clermont, Clinton, Hamilton, Highland, Lawrence, Scioto, and Warren. Western Division: Dayton: Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, and Shelby.

(c) Resident Defendant(s). *An action against a defendant or defendants resident in this District shall be filed at the location of Court that serves a county in which at least one defendant resides.*

S.D. Ohio Civ. Rule 82.1 (emphasis added).

As evidenced by the Complaint, both Heather and Thomas Kachos reside in Oxford, Ohio, in Butler County. Accordingly, this action should have been filed in the Western Division, in Cincinnati. While Plaintiff's caption reads, "Western Division," the case is assigned to a judge with chambers in the Eastern Division, in Columbus.

Furthermore, the doctrine of *forum non conveniens* applies. Columbus is an inconvenient forum for Defendants, who reside over 115 miles away.

Finally, in the event that any witness's attendance needed to be compelled by subpoena, under Fed. R. Civ. P. 45, those witnesses residing in the Oxford, Ohio area could not be compelled to attend proceedings in Columbus, as the Oxford, Ohio area lies more than 100 miles from that forum.

### **CONCLUSION**

For all the foregoing reasons, the Western Division of the Southern District of Ohio, and specifically, Cincinnati, Ohio is where this case should have been filed. Defendants respectfully request that it be transferred there.

Respectfully submitted,

**/s/ Edward P. Akin**

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CERTIFICATE OF SERVICE

I certify this document was filed electronically and served through the Court's ECF System on Aneca E. Lasley, [aneca.lasley@icemiller.com](mailto:aneca.lasley@icemiller.com), on June 8, 2022.

**/s/ Edward P. Akin**  
Edward P. Akin